IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-11-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.16314 of 1999

M/s.Shavan Agencies
rep. by Power Agent
Mr.N.Jagadeesan,
Son of Natesa Mudaliar,
42, Waltax Road,
Chennai-600 079. .. Petitioner.

Versus

1.State of Tamil Nadu
rep. by its Secretary to Govt,
Co-operation, Food and Consumer
Protection Department
Fort St.George, Chennai 600 009.

2.The Joint Commissioner of
Civil Supplies and Consumer Protection
Ezhilagam, Chepauk, Chennai 5.

3.The Deputy Commissioner of
Civil Supplies (City North)
Chepauk, Chennai 600005.

4.The Assistant Commissioner of
Civil Supplies, V.O.C Zone,
Moore Street, Chennai-600 001. .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari calling for the records on the file of the first respondent in Proceedings Letter Nilai No.35, dated 8.2.1999 and quash the proceedings of the first respondent in Letter Nilai No.35, dated 8.2.1999.

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For petitioner : Mr.V.Balakrishnan
For respondents : Mr.V.Manoharan
Government Advocate

O R D E R

Heard Mr.V.Balakrishnan, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

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2. The petitioner is an Agent of the Indian Oil Corporation Ltd., holding a licence bearing Registration No.13/78-79 issued under Clause 3 of the Tamil Nadu Kerosene (Regulation of Trade Order) 1973 (herein after referred to as the Order). On 30.4.1990, the third respondent ordered interim suspension of wholesale licence alleging that the petitioner agency had failed to maintain accounts for the excess withdrawal from the Indian Oil Corporation and subsequently, the licence of the petitioner was cancelled by the 4th respondent, on 24.7.1990, for the contravention under condition No.4586 of T.N.K. (R.T) Order, 1973. As against the said order of cancellation, an appeal was preferred by the petitioner before the third respondent, who had remitted the matter for fresh enquiry by extending the interim orders to be continued. The petitioner had also preferred a writ petition in W.P.No.9885 of 1991 before this Hon'ble Court and obtained a stay of the cancellation. Despite the grant of stay of cancellation of the licence, the petitioner was not supplied with kerosene. While that being so, the fourth respondent had issued a show cause notice in proceedings E/2118/90, dated 21.6.1991, for the contravention under condition No.5 and 6 of the T.N.K. (R.T) Order, 1973, under Clause 7(4) and 7(5) of the T.N.K.(R.T) Order 1973. Though an explanation was offered by the petitioner to the said show cause notice, the fourth respondent had cancelled the licence and forfeited the security deposit. Aggrieved against the said order, the petitioner filed an appeal before the third respondent, which was also dismissed by proceedings in N.7/5506/92, dated 30.9.1992. As against the said order of the 3rd respondent, a revision was preferred before the second respondent, which was also dismissed, confirming the orders of the 3rd and the 4th respondents. Aggrieved by the said order, a further revision was filed by the petitioner under clause 27 (1)(f) of the T.N.K.(R.T) Order, 1973, before the first respondent, which was also dismissed confirming the orders of the respondents 2 to 4. Hence, the present writ petition has been filed, invoking Article 226 of the Constitution of India raising various grounds as stated therein.

3. It has been further submitted by the learned counsel for the petitioner that with regard to similar offences, like those alleged against the petitioner, committed by other dealers, the order of cancellation of the licence have been modified to forfeiture of security deposit.

4.The learned counsel for the petitioner had also pointed out that in similar circumstances this Court had passed an order, dated 5.2.2007, in W.P.No.274 of 1999, setting aside the impugned order of the revisional authority and remitting the matter back for reconsideration permitting the petitioner to put forward his case before the Government.

5.Mr.V.Manoharan, learned Government Advocate appearing for the respondents has no objection for this Court to pass a similar order.

6.In view of the submissions made by the learned counsel appearing for the parties concerned and without going into the merits

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of the case, the impugned order, dated 08.02.1999, passed by the first respondent, is set aside and the matter is remitted back to the first respondent for fresh consideration.

7. In such circumstances, the petitioner is permitted to place his contentions before the first respondent by way of a representation within a period of two weeks from today and on such representation being made, the first respondent is directed to consider and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter.

The writ petition is disposed of with the above direction. No costs.

Rpa

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary,
State of Tamil Nadu
Co-operation, Food and Consumer
Protection Department
Fort St.George, Chennai 600 009.

2.The Joint Commissioner of
Civil Supplies and Consumer Protection
Ezhilagam, Chepauk, Chennai 5.

3.The Deputy Commissioner of
Civil Supplies (City North)
Chepauk, Chennai 600005.

4.The Assistant Commissioner of
Civil Supplies, V.O.C Zone,
Moore Street, Chennai-600 001.

+ One cc to Mr. V. Balakrishnan, Advocate SR 70035
• One cc to Govt Pleader SR 70436
VSV (co)
sg 03/01/08

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